

REMARKS

Claims 1-4 are pending in this application. All of the pending claims were rejected. None of the claims is currently amended. Reconsideration is requested.

Claims 1-4 were rejected under 35 U.S.C. 101 for being directed to non-statutory subject matter. In particular, the Office asserts that the claims lack the proper preamble and support in the specification necessary for a statutory computer program claim, referencing MPEP 2100. Applicant respectfully traverses. According to MPEP 2106.01, “when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” “Functional descriptive material” is defined in MPEP 2106.01 as data structures and computer programs which impart functionality when employed as a computer component. Referring to claim 1, the preamble recites a “program product comprising a computer readable medium having embodied therein a computer program for storing data.” Further, the body of the claim recites elements of functionality of the computer program, i.e., logic for detecting that a second access point is also using the radio frequency channel; and logic ... for adjusting transmit power to decrease interference with the second access point.” Claim 1 therefore recites functional descriptive material recorded on a computer-readable medium. It should also be noted that the claim elements are not merely abstract ideas, and actually cause a physical effect outside the computer by adjusting transmit power. Claims 2-4 are dependent claims which incorporate all of the limitations of claim 1. Applicant therefore asserts that claims 1-4 are statutory, and requests withdrawal of the rejection.

Applicant is aware that the Office has, during various periods of time, preferred specific phrasing of the preamble of computer program claims. The claims of this application were drafted in accordance with the preferences of the Office at the time of filing. If the Office has since come to prefer some variation of that language, Applicant would appreciate being told what variation of the language would now be deemed statutory.

This application is now considered to be in condition for allowance and such action is earnestly solicited. Should there remain unresolved issues that require action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

/Holmes W. Anderson/
Holmes Anderson, Reg. No. 37,272
Attorney/Agent for Applicant(s)
McGuinness & Manaras LLP
125 Nagog Park
Acton, MA 01720
(978) 264-6664

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